

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

WP(C).No. 35151 of 2007(I)

PETITIONER:

**ISMAYIL, S/O. ENI,
ULLADAN HOUSE, OORGATTIRI, MALAPPURAM.**

**BY ADV. SRI.JOSEPH SEBASTIAN PURAYIDAM
SMT.MABLE.C.KURIAN**

RESPONDENTS:

**1. DEPUTY TAHSILDAR,
ERANAD TALUK, MALAPPURAM DISTRICT.**

**2. SUB INSPECTOR OF POLICE,
ARICODE POLICE STATION, ARICODE P.O.,
MALAPPURAM DISTRICT.**

**3. DISTRICT COLLECTOR,
MALAPPURAM DISTRICT, MALAPPURAM.**

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28/11/2007,THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ANTONY DOMINIC, J.
=====

W.P.(C) NO. 35151 OF 2007 I
=====

Dated this the 28th day of November, 2007

J U D G M E N T

Ext.P10 order passed by the District Collector exercising powers under Rule 27 of Protection of River Banks and Regulation of Removal of Sand Act is under challenge. Petitioner submits that the vehicle was not loaded with river sand and that at any rate as he had a valid pass, the vehicle could not have been seized or proceedings initiated.

2. On going through the records, I do not find any reason to accept the contention raised by the petitioner or to interfere with Ext.P10 order of the District Collector. It is seen that Ext.P2 is the Mahazar prepared at the time of seizure of the vehicle. It is dated 18/10/07 and it states that when the lorry was intercepted, the lorry was found to be loaded with about 10 metric tons of river sand. The pass relied on by the petitioner is Ext.P3 and Ext.P3 pass shows that it was issued on 8/10/2007 and that the vehicle ought to have left with the load of river sand on 8/10/2007. If that be so, it is not possible to have loaded sand on the strength of Ext.P3 pass, on 18/10/2007 when seizure

was effected. Petitioner explains that the delay has occurred on account of mechanical defect of the truck. For this the documents relied on are Exts. P4, P5 and P6 bills, which according to him show purchase of spare parts. Even these are not acceptable for the reason that these bills are dated 10/10/2007 and 17/10/2007 and such a longer gap is unexplained. Therefore on an over all appreciation of the case, I see no reason to interfere with Ext.P10.

3. In so far as the fine and value that are imposed in Ext.P10 is concerned, I think the same is not disproportionate as the vehicle in question is a lorry and the value fixed is only Rs.50,000/- and fine imposed is also of an equivalent amount. This also does not call for any interference.

Writ petition fails and is dismissed.

ANTONY DOMINIC, JUDGE.

Rp